

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

MARY TUCKER,

Plaintiff,

Case No. 2014-138684-CZ

v.

Hon. Sheila Kumar

LIFE SKILLS CENTERS, INC.,
A Michigan nonprofit corporation,
and DALE WAGNER,

Defendants.

Maia E. Johnson (P40533)
Caitlin E. Malhiot (P76606)
Armin Halilovic (P78042)
Gold star Law, P.C.
Attorneys for Plaintiff
2701 Troy Center Drive, Suite 400
Troy, MI 48084
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mjohnson@goldstarlaw.com
cmalhiot@goldstarlaw.com
ahalilovic@goldstarlaw.com

John M. Boyda (P39268)
Hardy, Lewis & Page, P.C.
Attorneys for Defendants
401 South Woodward Avenue, Suite 410
Birmingham, MI 48009
(248) 645-0800
jmb@hardylewis.com

NOTICE OF FILING NOTICE OF REMOVAL
TO THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN

PROOF OF SERVICE

To: Maia E. Johnson, Esq.
Caitlin E. Malhiot, Esq.
Armin Halilovic, Esq.
Attorneys for Plaintiff

Oakland County Circuit Court Clerk and
Hon. Sheila Kumar

Defendants Life Skills Centers, Inc., a Michigan non-profit corporation and Dale Wagner (collectively "Defendants") filed this Notice of Removal on February 24, 2014, copies of which are attached hereto, in the office of the Clerk of the United States District Court, Eastern District of Michigan, Southern Division - Detroit, Michigan. Attached thereto are copies of pertinent documents filed in connection with such removal.

Respectfully submitted,

/s/John M. Boyda
John M. Boyda (P39268)
Attorneys for Defendants
Hardy, Lewis & Page, P.C.
401 S. Woodward Ave., Suite 410
Birmingham, Michigan 48009
Telephone: (248) 645-0800
Email: jmb@hardylewis.com

February 24, 2014

CERTIFICATE OF SERVICE

I hereby certify that on February 24, 2014, I electronically filed the foregoing paper with the Clerk of the Court using the Wiznet system which constitutes service upon Maia E. Johnson, Esq., Caitlin E. Malhiot, Esq., and Armin Halilovic, Esq., Attorneys for Plaintiff, 2701 Troy Center Drive, Suite 400, Troy, MI 48084.

Respectfully submitted,

/s/John M. Boyda
John M. Boyda (P39268)
Attorneys for Defendants
Hardy, Lewis & Page, P.C.
401 S. Woodward Ave., Suite 410
Birmingham, Michigan 48009
Telephone: (248) 645-0800
Email: jmb@hardylewis.com

Dated: February 24, 2014

00237522.WPD

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARY TUCKER,

Plaintiff,

Case No.

v.

Hon.

LIFE SKILLS CENTERS, INC.,
A Michigan nonprofit corporation,
and DALE WAGNER,

Defendants.

(Oakland County Circuit
Court Case No. 2014-138684-CZ)

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NOTICE OF REMOVAL

NOTICE OF FILING NOTICE OF REMOVAL

CERTIFICATE OF SERVICE

John M. Boyda (P39268)
Hardy, Lewis & Page, P.C.
Attorneys for Defendants
401 South Woodward Avenue, Suite 410
Birmingham, MI 48009

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARY TUCKER,

Plaintiff,

Case No.

v.

Hon.

LIFE SKILLS CENTERS, INC.,
A Michigan nonprofit corporation,
and DALE WAGNER,

Defendants.

(Oakland County Circuit
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NOTICE OF REMOVAL

To the Judges of the United States District Court for the Eastern District of Michigan,
Southern Division:

Defendants Life Skills Centers, Inc., a Michigan non-profit corporation and Dale Wagner
(collectively "Defendants"), through their undersigned counsel, file this Notice of Removal in the
United States District Court for the Eastern District of Michigan, Southern Division, of a case from
Oakland County Circuit Court to the United States District Court of the Eastern District of Michigan,
and in support thereof state as follows:

1. On February 4, 2014, Plaintiff filed her Complaint against Defendants Life Skills
Centers, Inc., a Michigan non-profit corporation and Dale Wagner in the Oakland County Circuit
Court entitled Mary Tucker v. Life Skills Centers, Inc., a Michigan non-profit corporation and Dale

Wagner, Case No. 2014-138684-CZ. A copy of the summons and complaint were served on Defendant Life Skills Center, Inc. on February 7, 2014 and are attached hereto as Exhibit A.

2. This removal petition is being filed within thirty (30) days of receipt of the Complaint by service.

3. Life skills Centers, Inc. is a Michigan non-profit corporation with its principal place of business located in Macomb County, Michigan.

4. Plaintiff is a former employee of Life Skills Centers, Inc. and, upon information and belief, she resides in Oakland County, Michigan.

5. In her Complaint, Plaintiff alleges that Defendant Life skills Centers, Inc., violated the Fair Labor Standards Act, 29 U.S.C. 201 *et seq.* ("FLSA") and the Michigan Minimum Wage Law of 1964 ("MMLW"), MCL 408.384a by failing to pay appropriate overtime compensation to her.

6. Pursuant to 28 U.S.C. § 1441(b), Defendants may remove any civil action of which the district courts have original jurisdiction founded on a claim or right arising under the Constitution, treaties or laws of the United States, without regard to the citizenship or residence of the parties.

7. Because Plaintiff is asserting federal claims pursuant to the FLSA against Defendants, this Honorable Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and 29 U.S.C. § 216. This Honorable Court has supplemental jurisdiction over the balance of the claims raised in the parties' Complaint pursuant to 28 U.S.C. § 1367 as they arise from the same nucleus of facts. Ritchie v. United Mine Workers of America, 410 F.2d 827 (6th Cir. 1969).

8. The above-entitled action is a civil action of which this Court has original jurisdiction under the provisions of 28 U.S.C. § 1331, and is one which may be removed to this Court by Defendants pursuant to the provisions of 28 U.S.C. § 1441 because Plaintiff's claims are within the scope of, and encompassed by, 29 U.S.C. 201 *et seq.* ("FLSA"), a federal statute. Both Defendants consent to and are participating in the removal of this action.

9. Copies of all process and pleadings and orders served upon the parties are attached to this Petition for Removal in accordance with 28 U.S.C. § 1446(a). See attached Exhibit A.

10. Concurrent with filing this Notice of Removal, Defendants are providing notice to all adverse parties and the Clerk for the Oakland County Circuit Court pursuant to 28 U.S.C. § 1446(d).

WHEREFORE, Defendants Life Skills Centers, Inc., a Michigan non-profit corporation and Dale Wagner give notice that the above-described action pending in Oakland County Circuit Court is being removed to this Honorable Court.

Respectfully submitted,

HARDY, LEWIS & PAGE, P.C.

s/John M. Boyda
John M. Boyda (P39268)
Attorneys for Defendants
Hardy, Lewis & Page, P.C.
401 S. Woodward Ave., Suite 410
Birmingham, Michigan 48009
Telephone: (248) 645-0800
Email: jmb@hardylewis.com

Dated: February 24, 2014

CERTIFICATE OF SERVICE

I hereby certify that on February 24, 2014, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to Maia E. Johnson, Esq., Caitlin E. Malhiot, Esq., and Armin Halilovic, Esq., Attorneys for Plaintiff, , 2701 Troy Center Drive, Suite 400, Troy, MI 48084.

Respectfully submitted,

s/John M. Boyda
John M. Boyda (P39268)
Attorneys for Defendants
Hardy, Lewis & Page, P.C.
401 S. Woodward Ave., Suite 410
Birmingham, Michigan 48009
Telephone: (248) 645-0800
Email: jmb@hardylewis.com

Dated: February 24, 2014
00237522.WPD

EXHIBIT A

This case has been designated as an eFiling case. To review a copy of the Notice of Mandatory eFiling visit www.oakgov.com/clerkrod/efiling.

Approved, SCAO	Original - Court 1st copy - Defendant	2nd copy - Plaintiff 3rd copy - Return
STATE OF MICHIGAN JUDICIAL DISTRICT 6th JUDICIAL CIRCUIT COUNTY PROBATE	SUMMONS AND COMPLAINT	CASE NO. 2014-138684-CZ

Court address
1200 N. Telegraph Rd, Pontiac, MI 48341

Court telephone no.
(248) 858-0382

Plaintiff's name(s), address(es), and telephone no(s).
Mary M. Tucker
3146 Waukegan St.
Auburn Hills, MI 48326

Plaintiff's attorney, bar no., address, and telephone no.
Mala B. Johnson (P40533)
Gold Star Law, PC
2701 Troy Center Dr., Ste. 400
Troy, MI 48064
(248) 275-5200

Defendant's name(s), address(es), and telephone no(s).
Life Skills Centers, Inc.
53 Crocker Blvd.
Mount Clemens, MI 48043
(586) 468-3682

Dale R. Wagner Sr.
47167 Hennings St.
Chesterfield, MI 48047-4914

SUMMONS NOTICE TO THE DEFENDANT: In the name of the people of the State of Michigan you are notified:

1. You are being sued.
2. YOU HAVE 21 DAYS after receiving this summons to file a written answer with the court and serve a copy on the other party or take other lawful action with the court (28 days if you were served by mail or you were served outside this state). (MCR 2.111(C))
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.

Issued FEB 04 2014	This summons expires MAY 06 2014	Court clerk Lisa Brown
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*This summons is invalid unless served on or before its expiration date.

This document must be sealed by the seal of the court.

COMPLAINT Instruction: The following is information that is required to be in the caption of every complaint and is to be completed by the plaintiff. Actual allegations and the claim for relief must be stated on additional complaint pages and attached to this form.

Family Division Cases

- ☐ There is no other pending or resolved action within the jurisdiction of the family division of circuit court involving the family or family members of the parties.
- ☐ An action within the jurisdiction of the family division of the circuit court involving the family or family members of the parties has been previously filed in _____ Court.
- The action ☐ remains ☐ is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.
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General Civil Cases

- ☒ There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.
- ☐ A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in _____ Court.
- The action ☐ remains ☐ is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.
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VENUE

Plaintiff(s) residence (include city, township, or village) Auburn Hills	Defendant(s) residence (include city, township, or village) Mount Clemens, Chesterfield
Place where action arose or business conducted Auburn Hills	

02/04/2014

Date

Signature of attorney/plaintiff

If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

Received for Filing Oakland County Clerk 2014 FEB 04 AM 11:01

This case has been designated as an eFiling case. To review a copy of the Notice of Mandatory eFiling visit www.oakgov.com/clerkrod/efiling.

STATE OF MICHIGAN
IN THE OAKLAND COUNTY CIRCUIT COURT

MARY TUCKER,

Plaintiff,

Case No. 2014-138684-CZ

v.

Hon. JUDGE KUMAR

LIFE SKILLS CENTERS, INC.,
a Michigan nonprofit corporation,
and DALE WAGNER

Defendant.

GOLD STAR LAW, P.C.
MAIA E. JOHNSON (P40533)
CAITLIN E. MALHIOT (P76606)
ARMIN HALILOVIC (P78042)
Attorneys for Plaintiff
2701 Troy Center Dr., Ste. 400
Troy, MI 48084
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mjohnson@goldstarlaw.com
emalhiot@goldstarlaw.com
ahalilovic@goldstarlaw.com

COMPLAINT

There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in this Complaint.

Plaintiff, Mary Tucker, through her attorneys, Gold Star Law, P.C., for her Complaint states as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff, Mary Tucker, is an individual residing in Auburn Hills, Oakland County, Michigan.
2. Defendant, Life Skills Centers, Inc., is a Michigan nonprofit corporation with its place of business in Mount Clemens, Macomb County, Michigan.

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3. Defendant, Dale Wagner, is the resident agent and executive director of Defendant corporation and is an individual residing in Chesterfield, Macomb County, Michigan.

4. The amount in controversy herein is in excess of \$25,000.00.

5. The wrongful conduct of Defendants alleged herein occurred in Oakland County, Michigan.

FACTUAL ALLEGATIONS

6. Defendant Life Skills Centers, Inc. provides assistance to handicapped adults ("clients") through various programs and services.

7. Defendant Life Skills Centers, Inc. has numerous centers throughout the Southeast Michigan area.

8. Defendant Dale Wagner's responsibilities include, but are not limited to: managing Defendant corporation's day-to-day operations, setting Defendant corporation's compensation policies, and allocating financial resources amongst the different centers.

9. Plaintiff was employed by Defendants from 2006 to March 9, 2013.

10. Plaintiff worked at the Defendants' Life Focus Center in Auburn Hills, Michigan, which specializes in providing services to clients with sensory processing difficulties.

11. Plaintiff's daily duties included teaching life skills to clients and transporting clients from the clients' homes to the Life Focus Center.

12. Defendants compensated Plaintiff on an hourly basis at a regular rate of \$10.69 per hour.

13. During Plaintiff's time of employment with Defendants, Plaintiff worked approximately 50 to 60 hours per week.

14. Based on Plaintiff's regular rate of pay at \$10.69 per hour, Defendants were required to compensate Plaintiff 1 ½ times Plaintiff's hourly rate of pay, or \$16.04, for all hours worked in excess of 40 hours per week.

15. Defendants never paid Plaintiff 1 ½ times Plaintiff's regular rate of pay for hours worked in excess of 40 hours per week.

16. Defendants never paid Plaintiff any compensation for hours worked in excess of 40 hours per week.

17. Plaintiff was not exempt from the overtime pay requirements of the Minimum Wage Law of 1964 ("MMWL"). MCL 408.394(a).

18. Plaintiff was not exempt from the overtime pay requirements of the Fair Labor Standards Act of 1938 ("FLSA"). 29 U.S.C. § 201, et seq.

COUNT I
VIOLATION OF THE MINIMUM WAGE LAW OF 1964

19. Plaintiff incorporates the allegations in the foregoing paragraphs as if fully stated herein.

20. Plaintiff is an "employee" within the coverage of the MMWL. MCL 408.382(b).

21. Defendant Life Skills Centers, Inc. is an "employer" within the coverage of the MMWL. MCL 408.382(c).

22. Defendant Dale Wagner is an "employer" within the coverage of the MMWL. MCL 408.382(c).

23. Pursuant to the MMWL, Defendants were required to pay Plaintiff 1 ½ times Plaintiff's regular rate of pay for all hours worked in excess of 40 hours in a week. MCL 408.384a.

24. Defendants failed to pay Plaintiff at 1 ½ times Plaintiff's regular rate of pay, or \$16.04 per hour, for all hours worked in excess of 40 hours per week, in violation of the MMWL.

25. An employer who violates the MMWL is liable to the employee for the difference between the amount paid to the employee and the amount that, but for the violation, would have been paid, plus an additional equal amount as liquidated damages and reasonable attorney fees. MCL 408.393.

WHEREFORE, Plaintiff requests that this Court grant judgment in Plaintiff's favor and against Defendants, jointly and severely, in an amount to be determined at trial but which is alleged to be in excess of \$25,000, together with Plaintiff's costs and reasonable attorney fees incurred herein, interest at the statutory rate from the filing of this Complaint, and such other relief as the Court deems just and equitable.

COUNT II
VIOLATION OF THE FAIR LABOR STANDARDS ACT OF 1938

26. Plaintiff incorporates the allegations in the foregoing paragraphs as if fully stated herein.
27. Plaintiff is an "employee" within the coverage of the FLSA. 29 U.S.C. § 203(e).
28. Defendant Life Skills Centers, Inc. is an "employer" within the coverage of the FLSA. 29 U.S.C. § 203(d).
29. Defendant Dale Wagner is an "employer" within the coverage of the FLSA. 29 U.S.C. § 203(d).
30. Defendants are an enterprise engaged in commerce as defined by the FLSA and have revenues in excess of \$500,000 per year. 29 U.S.C. § 203(s).
31. Pursuant to the FLSA, Defendants were required to pay Plaintiff 1 ½ Plaintiff's regular rate of pay for all hours worked in excess of forty (40) hours in a week. 29 U.S.C. § 207(a).
32. Defendants failed to pay Plaintiff at 1 ½ times Plaintiff's regular rate of pay, or \$16.04 per hour, for all hours worked in excess of 40 hours per week, in violation of the FLSA.

33. An employer who violates the FLSA is liable to the employee for the difference between the amount paid to the employee and the amount that, but for the violation, would have been paid, plus an additional equal amount as liquidated damages and reasonable attorney fees. 29 U.S.C. § 216(b).

WHEREFORE, Plaintiff requests that this Court grant judgment in Plaintiff's favor and against Defendants, jointly and severally, in an amount to be determined at trial but which is alleged to be in excess of \$25,000, together with Plaintiff's costs and reasonable attorney fees incurred herein, interest at the statutory rate from the filing of this Complaint, and such other relief as the Court deems just and equitable.

Respectfully submitted,

GOLD STAR LAW, P.C.

/s/ Armin Halilovic

Mala E. Johnson (P40533)

Caitlin E. Malhot (P76606)

Armin Halilovic (P78042)

Attorneys for Plaintiff

2701 Troy Center Dr., Ste. 400

Troy, MI 48084

248.275.5200

Dated: 2-4-14

Received for Filing Oakland County Clerk 2014 FEB 04 AM 08:00

CERTIFICATE OF SERVICE

I hereby certify that on 2-3-14, I electronically filed the foregoing document with the Clerk of the Court using the ECF system which will send notification of such filing to all counsel registered electronically:

/s/ Ryan Sherman
Ryan Sherman
GOLD STAR LAW, P.C.

Received for Filing Oakland County Clerk 2014 FEB 04 AM 08:00